

NOTE: Appearing first is the Full Board summary which is the last meeting of the day. The committees will follow in the order of which time they were conducted. The Dealer Board staff felt it would benefit our readers to have the last meeting of the day appear first on the website.

~ 2nd DRAFT ~

Meeting Summary
Motor Vehicle Dealer Board
Monday, May 9, 2005

Chairman D.B. Smit called the Dealer Board meeting to order at 11:29 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. The roll was called and there were 16 Board members present. Present were members Steve Farmer, Rick Hunt, Lynn Hooper, Todd Hyman, Clyde King, David Lacy, Hugh McCreight, Pat Patrick, Max Pearson, Frank Pohanka, Ted Robertson, Chris Schroeder, Larry Shelor, Vince Sheehy and Robert Woodall. (Absent: Bobby Joe Dotson, Carlton Courter and James Mitchell). Bruce Gould, Peggy Bailey and Katherine Idrissi represented the Dealer Board. Don Boswell represented DMV. Rick Walton represented the Attorney General's Office. Alice Weedon acted as Recording Secretary.

The March 14, 2005 meeting summary was approved.

PUBLIC COMMENT:

- **Bond Issue.** Jimmy Davis, of Davis Auto Sales, stated he did not see any reason for the Board to consider legislation that would increase the number of years a dealer is required to carry a bond. The current requirement of 3 years is adequate.

STATUTORY COMMITTEE REPORTS:

Dealer Practices Committee:

- **Shaheen A. Ferris, II and Short Pump Auto Sales, LLC.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Shaheen A. Ferris, II. Based on that discussion, Mr. Hyman made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Mr. Shaheen A. Ferris, II t/a Short Pump Auto Sales, LLC for alleged violations of Va. Code §46.2-1575(2), failure to comply subsequent to receipt of a written warning and willful failure to comply with the dealer laws, and §§46.2-1529 and 46.2-1532 related to record keeping. Mr. Ferris received numerous letters, educational efforts and opportunities to comply with the record keeping requirements. Based on due consideration and the recommendation of the hearing officer, the Board believes a civil penalty should be levied against Mr. Shaheen A. Ferris, II t/a Short Pump Auto Sales, LLC. The Board hereby assesses a civil penalty in the amount of \$ 1,500 for violations of Va. Code §§46.2-1529 and 46.2-1532 related to record keeping requirements and Va. Code §46.2-75(2), failure to comply to a written warning/willful disregard for the dealer laws.

Frank Pohanka seconded. The motion carried unanimously.

- **Isaac T. Olufoye and Isaac Discount Auto Sales.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Isaac T. Olufoye and Isaac Discount Auto Sales. Based on that discussion, Mr. Hyman made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact-finding conference as prepared by the hearing officer concerning Mr. Isaac T. Olufoye t/a Isaac Discount Auto Sales for alleged violations of Va. Code §46.2-1533, failure to maintain required business hours and Mr. Olufoye received at least two warning/educational letters that outlined the minimum hours requirements and previously paid a \$250 civil penalty for violations of Va. Code §46.2-1533, failure to maintain required business hours. Based on due consideration, and the hearing officer's recommendation, the Board believes that a civil penalty should be levied against Mr. Isaac T. Olufoye t/a Isaac

Discount Auto Sales. The Board hereby assesses a civil penalty in the amount of \$350 on Mr. Isaac T. Olufoye t/a Isaac Discount Auto Sales for violations of Va. Code §46.2-1533.

Frank Pohanka seconded. The motion carried unanimously.

- **Jeffrey Brown and Liberty Auto Sales.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Jeffrey Brown and Liberty Auto Sales. Based on that discussion, Mr. Hyman made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact-finding conference as prepared by the hearing officer concerning Mr. Jeffery Brown t/a Liberty Auto Sales for alleged violations of Va. Code §§46.2-1510 dealers are required to have an established place of business; 46.2-1515 location to be specific; display of licenses; change of location; 46.2-1516 supplemental sales location; 46.2-1529 dealer records; 46.2-1537 soliciting through or compensating any unlicensed person for a motor vehicle sale; 46.2-1550(2) issuance and use of temporary transport plates; 46.2-1575(2), failure to comply subsequent to receipt of a written warning and willful failure to comply with the dealer laws; (3), failure to have an established place of business; (6), having used deceptive acts or practices; and (12), allowing unauthorized person to use dealer license plates. Based on due consideration and the recommendation of the hearing officer, the Board believes a civil penalty should be levied against Mr. Jeffery Brown t/a Liberty Auto Sales. The Board hereby assesses a civil penalty in the amount of \$200 for violations of Va. Code §46.2-1529, dealer records.

Pat Patrick seconded. The motion carried unanimously.

Licensing Committee:

Chairman Bobby Joe Dotson summarized discussions held and actions that were taken during the Committee Meeting.

- **Phillip A. Mitchell.** Vice-Chairman Frank Pohanka summarized for the Board the discussion held in the Committee meeting regarding Phillip A. Mitchell. Based on that discussion and the recommendation in the case, Mr. Pohanka made the following motion: Based on the evidence and the recommendation of a report of an informal fact-finding conference as prepared by a hearing officer, the executive director, under the authority granted by the Motor Vehicle Dealer Board, denied the salesperson's application of Mr. Phillip A. Mitchell. Mr. Mitchell appealed the denial and requested a formal hearing. Based on due consideration, and the hearing officer's recommendation, the Board believes that Mr. Mitchell's application should be denied. The Board hereby denies the salesperson's license application of Mr. Phillip A. Mitchell for violations of: Va. Code §§46.2-1575 (1) having made a material misstatement or omission in application for the license; (4) defrauding any retail buyer, to the buyer's damage, or any other person in the conduct of the licensee's or registrant's business; (8) having been convicted of any fraudulent act in connection with the business of selling vehicles or any consumer-related fraud; (9) having been convicted of any criminal act involving the business of selling vehicles; (13) having been convicted of a felony, and (14) failure to submit to the Department within thirty days from the date of sale, any application, tax, or fee collected for the Department on behalf of a buyer.

David Lacy seconded. The motion carried unanimously.

- **Andrew P. Hrabovsky, Jr.** Vice-Chairman Frank Pohanka summarized for the Board the discussion held in the Committee meeting regarding Andrew P. Hrabovsky, Jr. Based on that discussion and the recommendation in the case, Mr. Pohanka made the following motion: Based on the evidence and a report of an informal fact-finding conference as prepared by a hearing officer, the executive director, under the authority granted by the Motor Vehicle Dealer Board, revoked the salesperson's application of Mr. Andrew P. Hrabovsky. Mr. Hrabovsky appealed the revocation and requested a formal hearing. Based on due consideration, and the hearing officer's report, the Board believes that no action should be taken with regards to Mr. Hrabovsky's salesperson's license

and certificate of qualification. The Board hereby takes no further action concerning Mr. Andrew P. Hrabovsky, Jr's salesperson's license and certificate of Qualification.

Hugh McCreight seconded. The motion carried unanimously.

Advertising Committee:

Chairman Vince Sheehy summarized discussions that were held during the Committee Meeting.

Transaction Recovery Fund Committee:

Chairman Steve Farmer summarized discussions held and actions that were taken during the Committee Meeting.

Motion was made by Steve Farmer for the Board to propose Legislation to increase the bond from \$25,000 to \$50,000. Clyde King seconded. The motion carried unanimously.

- **Charlene Arrington and Auto Rama, Faye E. Teets and Windsor Auto Sales and Walter F. Clark and Premier Auto and Edward Mayo and Steve's Wholesale, LLC and Stephen E. Bilenky.** Chairman Steve Farmer summarized for the Board the discussion held in the Committee meeting regarding Charlene Arrington and Auto Rama, Faye E. Teets and Windsor Auto Sales and Walter F. Clark and Premier Auto and Edward Mayo and Steve's Wholesale, LLC and Stephen E. Bilenky. Based on that discussion and the recommendation in the case, Mr. Farmer made the following motions: Pursuant to §46.2-1527.1 et seq. of the Code of Virginia, which is known as the Motor Vehicle Transaction Recovery Fund ("Fund"), the Board has reviewed and considered claims submitted for payment from the Fund on the claims and based on due consideration and recommendation of the hearing officer, the Board believes the following claims should be payable from the Fund. The Board hereby approves and reaffirms the following claims and payment amounts subject to compliance by the claimant with statutory requirements:

Charlene Arrington and Auto Rama

\$1,978.99

David Lacy seconded. The motion carried unanimously.

Faye E. Teets and Windsor Auto Sales

\$20,000.00

Pat Patrick seconded. The motion carried unanimously.

**Walter F. Clark and Premier Auto and Edward Mayo
And Steve's Wholesale, LLC and Stephen E. Bilenky**

\$8,574.32

Pat Patrick seconded.

Substitute motion was made by Lynn Hooper to not pay the depreciation amount to Mr. Clark. Pat Patrick seconded. All in favor: 1 (Hooper). Opposed: 15 (Smit, Farmer, Hunt, Hyman, King, Lacy, McCreight, Patrick, Pearson, Pohanka, Robertson, Schroeder, Shelor, Sheehy, Woodall). The motion failed.

Original motion stands. All in favor: 15 (Smit, Farmer, Hunt, Hyman, King, Lacy, McCreight, Patrick, Pearson, Pohanka, Robertson, Schroeder, Shelor, Sheehy, Woodall). Opposed: 1 (Hooper). The motion carried.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Clyde King spoke on behalf of Bobby Joe Dotson. He read a letter from Mr. Dotson and it stated his gratitude and memories of the Motor Vehicle Dealer Board. He enjoyed working with everyone. Mr. King's term will also end as of June 30, and on behalf of himself; he thanked the Board members as well.

- **Curbstoning Report.** Don Boswell, Chief of Investigations for DMV, gave a brief update on ISO investigations relating to curbstoning since the March Board meeting.
- **"Real ID Act".** D. B. Smit spoke to the Members on the "Real ID Act" which was adopted by Congress the first week of May. He indicated that everyone getting a driver's license will now have to go into a Customer Service Center and will not have the luxury of renewing on the internet or through the mail. Also, for purposes of ID, Social Security Card, legal presence and residency will now have to be verified via individual computer databases for each entity, such as for residency, verify through Virginia Power's database. It could now take approximately 6 weeks to get a driver's license.
- **Legislative Concepts: 2006 General Assembly.** There were no further legislative suggestions at this time.

The next meeting will be scheduled for July 11, 2005

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

- **Executive Director's Report.** Bruce Gould indicated that staff is continuing their efforts on upgrading DealerNet, which is a system of warehousing and tracking our records. He also indicated that departing Board members Bobby Joe Dotson, Steve Farmer, Rick Hunt and Clyde King are not eligible for re-appointment. However, Lynn Hooper, Max Pearson, Chris Schroeder and Vince Sheehy are eligible for re-appointment. For those departing members, they are still considered active members until the Governor appoints their replacements. Ted Robertson indicated that he has sold his business and will not be returning as a Board member.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Smit adjourned the meeting at 12:22 p.m.

Meeting Summary
Dealer Practices Committee
Monday, May 9, 2005

Chairman Todd Hyman called the Dealer Practices Committee meeting to order at 8:32 a.m. in Room 702 of the DMV Headquarters Building at 2300 W. Broad Street in Richmond. Present were Committee members Vince Sheehy, Clyde King, Hugh McCreight, Pat Patrick, Frank Pohanka, Ted Robertson, Chris Schroeder and Robert Woodall. (Absent: Bobby Joe Dotson and James Mitchell) Other Board members present: D.B. Smit, Lynn Hooper, Rick Hunt, Steve Farmer, Max Pearson, David Lacy and Larry Shelor. Executive Director Bruce Gould, Peggy Bailey and Katherine Idrissi represented the Dealer Board. Rick Walton was present from the Attorney General's Office.

The March 14, 2005 meeting summary was approved.

PUBLIC COMMENT:

There was no public comment.

OLD BUSINESS

- **Update: March Actions.** Peggy Bailey reported on the actions taken at the Dealer Practices Committee meeting on March 14, 2005.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conference:

- **Isaac T. Olufoye and Isaac Discount Auto Sales.** On March 29, 2005, an informal fact-finding conference was conducted to address the alleged violation of §46.2-1533 (failure to maintain the minimum business hours) against Isaac T. Olufoye and Isaac Discount Auto Sales. Based on the information provided at the conference, the hearing officer recommended that the Board assess a civil penalty of \$350.00 against Mr. Olufoye for failing to maintain his business hours.

Motion was made by Pat Patrick to accept the hearing officer's recommendation. Clyde King seconded. Motion carried unanimously.

- **Shaheen A. Ferris, II and Short Pump Auto Sales, LLC.** On February 28, 2005, an informal fact-finding conference was conducted to address the alleged violations of §46.2-1529 (failure to maintain required sales records), §46.2-1532 (failure to maintain all odometer records mandated by state and federal law) and §46.2-1575(2) (failure to comply subsequent to a written warning from the Board) against Shaheen A. Ferris, II and Short Pump Auto Sales, LLC. Based on the information provided at the conference, the hearing officer recommended that a civil penalty of \$500.00 per violation be assessed for a total civil penalty of \$1,500.00 against Mr. Ferris for his failing to maintain required sales records, failing to maintain all odometer records and failing to comply with a written warning.

Motion was made by Robert Woodall to accept the hearing officer's recommendation. Hugh McCreight seconded. Motion carried unanimously.

- **Jeffrey Brown and Liberty Auto Sales.** On March 8, 2005, an informal fact-finding conference was conducted to address the alleged violations of §46.2-1510 (Dealers required to have an established place of business), §46.2-1515 (location to be specified, display of licenses and change of location), §46.2-1516 (supplemental sales location), §46.2-1529 (failure to maintain dealer records), §46.2-1537 (prohibited solicitation and compensation), §46.2-1550.2 (Issuance and use of temporary transport plates), §46.2-1575(3) (failure to have established place business), §46.2-1575(6) (having used deceptive acts or practices) and §46.2-1575(12) (leasing, renting, lending, or otherwise allowing the use of a dealer's license plate by persons not specifically authorized) against Jeffrey Brown and Liberty Auto Sales. Based on the information provided at the conference, the hearing officer recommended that the Board impose a civil penalty of \$200.00 against Mr. Brown for his failure to maintain dealer records.

Motion was made by Pat Patrick to accept the hearing officer's recommendation. Frank Pohanka seconded. Motion carried unanimously.

- **Report on Variance Requests (Dealer Hours and Storage of Dealer Records).** Bruce Gould indicated that there were two requests to store plates at a centralized location for on-line dealers. Both requests were granted.
- **Legislative Concepts: 2006 General Assembly.** Bruce Gould extended to the Committee members the opportunity to suggest any legislative concepts in regards to Dealer Practices. There were no suggestions at this time.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for July 11, 2005.

The meeting adjourned at 8:56 a.m.

Meeting Summary

Dealer Licensing Committee

Monday, May 9, 2005

Vice-Chairman Frank Pohanka called the Dealer Licensing Committee meeting to order at 8:58 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Steve Farmer, Rick Hunt, Todd Hyman, David Lacy, Larry Shelor and Robert Woodall. (Absent: Bobby Joe Dotson and James Mitchell) Other Board members present: D.B. Smit, Ted Robertson, Lynn Hooper, Vince Sheehy, Clyde King, Max Pearson, Hugh McCreight, Pat Patrick and Chris Schroeder. Executive Director Bruce Gould, Peggy Bailey and Katherine Idrissi represented the Dealer Board. Rick Walton represented the Attorney General's Office.

The March 14, 2005 meeting summary was approved.

PUBLIC COMMENT:

There was no public comment.

OLD BUSINESS

- **Update: Dealer-Operator Test and Educational Requirements.** Bruce Gould stated that legislation passed this last session that will effectively establish two classes of dealer operator license: One for dealer-operators of independent dealer and one for all others. The legislation requires that to obtain the independent dealer operator's license, the applicant must first successfully complete a course of study. The computer system will be modified to reflect this change and establish the two different types of Dealer-Operators. On December 31st of this year, a special run across the file will identify who ever is listed as the Dealer-Operator for all independent dealerships. These individuals will be grandfathered from the current Dealer-Operator status to this new Independent Dealer-Operator. Entities that are authorized by MVDB to conduct the course will establish the qualification record on the dealer system for those that pass the course. These individuals will then need to go to a DMV Customer Service Center to take a test. Once they pass the test, they will be fully qualified. All this will be implemented by the first of January 2006.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Formal Hearings:

- **Phillip A. Mitchell.** On April 28, 2004, an informal fact-finding conference was convened to address the alleged violations by Mr. Mitchell of §46.2-1575(1) (material misrepresentation in the application) §46.2-1575(4) (defrauded any retail buyer, to the buyer's damage), §46.2-1575(8) (convicted of any fraudulent act in connection with the business of selling vehicles or any consumer-related fraud), §46.2-1575(9) (having been convicted of any criminal act involving the business of selling vehicles), §46.2-1575(13) (having been convicted of a felony), §46.2-1575(14) failure to submit to DMV, within thirty days from the date of sale, any application, tax, or fee collected for the DMV on behalf of the buyer) and §46.2-1527.7 (Funds from the Transaction Recovery Fund were paid out to six customers and Mr. Mitchell has yet to pay back the Fund).

The Executive Director agreed with the hearing officer's recommendation to deny his application. Mr. Mitchell appealed this decision and requested a formal hearing. A formal hearing was conducted on December 9, 2004. Based on information provided at the hearing, the hearing officer recommended that Mr. Mitchell be considered ineligible to apply for a Board-issued license until he has reimbursed the Recovery Fund.

Motion was made by Robert Woodall to deny Mr. Mitchell's salespersons license. David Lacy seconded. The motion carried unanimously.

Mr. Jay Millman, attorney for Mr. Hrabovsky, spoke on his client's behalf.

- **Andrew P. Hrabovsky, Jr.** On February 11, 2004, an informal fact-finding conference was convened to address Mr. Hrabovsky's alleged violations of §46.2-1575(9) (having been convicted of any criminal act involving the business of selling vehicles), §46.2-1575(13) (having been convicted of a felony). The hearing officer recommended that no action be taken against Mr. Hrabovsky and allow him to renew his license. The Executive Director disagreed with the hearing officer's recommendation and indicated that Mr. Hrabovsky's license be revoked. Mr. Hrabovsky appealed the Executive Director's decision and requested a formal hearing. A formal hearing was conducted on January 21, 2005. Based on information provided at the hearing, the hearing officer recommended that Mr. Hrabovsky's license be revoked.

Motion was made by Steve Farmer to reject the hearing officer's recommendation and allow Mr. Hrabovsky to maintain his license. Todd Hyman seconded. Rationale for this decision is that this was an isolated incident, he's never been in trouble before and the circumstances surrounding Mr. Hrabovsky was that he was trying to avoid bankruptcy, maintain his payroll and the outcome caused Mr. Hrabovsky to mentally break down. The motion carried unanimously.

- **Legislative Concepts: 2006 General Assembly.** At the last meeting the Committee decided that the Board should pursue legislation that would change the definition for salespersons so that it included F&I employees and the sales managers. Bruce Gould extended to the Committee members the opportunity to suggest any additional legislative concepts in regards to Licensing. There were no further suggestions.

The next meeting was scheduled for July 11, 2005.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The meeting adjourned at 9:45 a.m.

Meeting Summary
Advertising Committee
Monday, May 9, 2005

Chairman Vince Sheehy called the Advertising Committee meeting to order at 9:56 a.m. in Room 702, at DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Ted Robertson, Steve Farmer, Rick Hunt, Hugh McCreight, Pat Patrick, Max Pearson, Chris Schroeder and Larry Shelor. Other Board members present: D.B. Smit, Lynn Hooper, Todd Hyman, Frank Pohanka, Robert Woodall, Clyde King and David Lacy. Executive Director Bruce Gould, Peggy Bailey and Katherine Idrissi represented the Dealer Board. Rick Walton represented the Attorney General's Office.

The March 14, 2005 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

- **Legislative Concepts: 2006 General Assembly.** Bruce Gould extended to the Committee members the opportunity to suggest any legislative concepts in regards to Advertising. There were no suggestions at this time.

The next meeting will be July 11, 2005.

NEW BUSINESS FROM THE FLOOR

- **Advertisement Concern.** Max Pearson brought an advertisement to the Committee for staff to review. The advertisement indicated an off-site sale. At this time, Bruce Gould indicated that this advertisement was handled and that this dealership did not have a supplemental license to conduct the sale. The dealership, under duress, had to shut down the off-site sale and returned the vehicles to the dealership's lot. Mr. Pearson praised Bruce and his staff, but indicated that there were other violations in the advertisement as well. Mr. Gould indicated that staff will take a further look at the advertisement, if they haven't already found them.

The meeting adjourned at 9:59 a.m.

Meeting Summary
Transaction Recovery Fund Committee
Monday, May 9, 2005

Chairman Steve Farmer called the Transaction Recovery Fund Committee meeting to order at 10:00 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Clyde King, David Lacy, Chris Schroeder, Larry Shelor and Lynn Hooper. (Absent: Bobby Joe Dotson). Other Board members present: Ted Robertson, Vince Sheehy, Robert Woodall, Todd Hyman, Frank Pohanka, Rick Hunt, Pat Patrick, Max Pearson and Hugh McCreight. Executive Director Bruce Gould, Peggy Bailey and Katherine Idrissi represented the Dealer Board. Rick Walton represented the Attorney General's Office.

The March 14, 2005 summary was approved.

PUBLIC COMMENT:

There was no public comment.

OLD BUSINESS

- **Report from the April 21st Special Transaction Recovery Fund Meeting:** Bruce Gould indicated that the purpose of this meeting was to discuss two issues. At the March Board meeting, the Board voted to seek legislation that would require Dealers in their first three years of operation to have a \$50,000 bond rather than the current \$25,000. At that time, it was suggested that the Committee meet, prior to the May Board meeting, to discuss and make a recommendation concerning adjusting the three year bond requirement to a higher number of years. After reviewing the data and discussing the matter, the consensus of the group was that the evidence was not compelling enough to seek legislation to adjust the time frame. Members of the committee unanimously voted to recommend to the Board that they not seek legislation to adjust the time frame requirements. The second issue was attorney fees. Research conducted by staff and members of the committee indicate that in other sections of the Code, there is no set dollar amount or percentage amount for attorney fees. Rather, it indicates the limit of attorney fees as "reasonable". It was pointed out that those who would oppose setting a limit would argue that if you set a limit, attorneys may no longer take the cases. Also, the Fund Balance continues to grow, thereby diffusing any argument that paying attorney fees could "bankrupt" the Fund. After much discussion, it was evident that the consensus was not to seek legislation to limit attorney fees. Committee members voted to table this matter until the July Committee Meeting.

Motion was made by David Lacy to "not" move the three year bond to a higher number of years. Lynn Hooper seconded. The motion carried unanimously.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

Review and Action: Informal Fact-Finding Conference Results:

- **Charlene Arrington and Auto Rama.** On September 19, 2003, Ms. Arrington purchased a 1994 Ford Explorer for \$2,600.00 from Richie Thacker of Auto Rama. She made a \$400.00 deposit and indicated that she would return the next day and pay the remaining balance. On September 20, 2003, Ms. Arrington returned to Auto Rama and paid \$2,200.00 in cash for the Ford Explorer. Mr. Thacker issued a temporary certificate and indicated that he did not have the title, but would have it to her within 30 days. On October 20, 2003, Ms. Arrington returned to Auto Rama to obtain her title. Mr. Thacker indicated that the title still was not available

and issued her another temporary certificate. The same thing happened again on November 19 and from December 19, 2003 through April of 2004, the same occurrence took place between Mr. Thacker and Ms. Arrington and he continued to issue temporary certificates. On April 18, 2004, Ms. Arrington returned to the dealership, only to find that the dealership had gone out of business. That same day, Ms. Arrington went to DMV and reported that she was unable to get her title for the past 8 months from Auto Rama. Agent Flowers-Powell took the original bill of sale and the latest temporary certificate and indicated that Ms. Arrington had a case and that she was going to charge Mr. Thacker with a felony for supplying false information on the temporary certificate.

On June 9, 2004, the Legal Aid Society of Roanoke served Ritchie Thacker with a Motion of Judgment for (1) Failure to deliver title and (2) for violation of the Virginia Consumer Protection Act. The title was being held by the Shelor Chevrolet Corp., which also has a law suit against Ritchie Thacker for payment of the vehicle. On June 10, 2004, the Legal Aid Society of Roanoke submitted, as prior notification, to the Dealer Board the Motion for Judgment that had been filed against Ritchie L. Thacker and Auto Rama. On September 28, 2004, Ms. Arrington was awarded judgment against Ritchie Thacker and Auto Rama in the amount of \$4,078.99. The award amount is based on \$2,600.00 for the purchase price, \$1,000.00 in punitive damages and \$478.00 in attorney fees. On January 31, 2005, Henry Woodward, counsel for Ms. Arrington, sent a letter to Shelor confirming an agreement to transfer title to Ms. Arrington for \$1,500.00 of the proceeds she may recover from the Fund.

After carefully reviewing all the documentation, it was recommended that the Recovery Fund Committee and Board approve Ms. Arrington's claim in the amount of \$1,978.99. This amount is based on the agreement of \$1,500.00 in order to obtain title and the attorney fees in the amount of \$478.99. On April 11, 2005, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer agrees with the Board staff's claim approval and recommended that the Board approve payment to Ms. Arrington in the amount of \$1,978.99.

After further discussion and review of the information provided to the Committee in their notebooks, a motion was made by Steve Farmer to accept the hearing officer's recommendation and pay Ms. Arrington in the amount of \$1,978.99. Pat Patrick seconded. The motion carried unanimously.

- **Faye E. Teets and Windsor Auto Sales.** On April 16, 2000, Ms. Teets and her fiancée went to Windsor Auto Sales to test drive 1995 Ford Bronco. Mr. Thai, owner of Windsor Auto Sales, indicated that the vehicle had never been in an accident. He further explained to Ms. Teets that he was not set up to finance vehicles and if she needed financing, she would need to purchase the vehicle from Auto Advantage of Richmond. Ms. Teets contacted Gary Sager, owner and salesperson for Auto Advantage, and began negotiations on April 19, 2000 for the 1995 Ford Bronco. Ms. Teets, again, asked if the vehicle had ever been damaged, wrecked or repaired. Mr. Sager indicated that the vehicle had been inspected, it had not been damaged or wrecked and that it was in good shape. He said the only thing the vehicle needed was tires and he would put them on for her. After relying on the warranties and the promises about the vehicle's condition, Ms. Teets agreed to purchase the vehicle from Auto Advantage for a total purchase price of \$9,211.93. Ms. Teets made a down payment of \$2,000.00 and the remaining balance was financed through Transouth Financial Corporation (Transouth).

In May of 2002, Ms. Teets discovered that the vehicle was damaged and repaired prior to her purchase. The vehicle swayed when she drove it. She took the vehicle to a mechanic and was told it would not pass inspection and that the whole front end was ready to fall out. She then obtained a Car Fax report which indicated that her vehicle was branded salvage/junk on the title. After Ms. Teets learned that the vehicle was unsafe to drive due to the damages and the sloppy repairs, she stopped driving the vehicle and in December of 2002 she stopped making payments to Transouth.

On February 7, 2003 Ms. Teets sought legal counsel and sent a written notice to Auto Advantage and Transouth requesting the return of all funds paid under the Retail Installment Contract for the damages she has suffered due to Auto Advantages' breach of contract and fraudulent misrepresentations of the vehicle. Both refused to do so. On March 18, 2004, John Gayle, legal counsel for Ms. Teets, submitted to the Dealer Board, as prior notification, a Motion for Judgment that had been filed against Auto Advantage, Windsor Auto Sales and Transouth Financial Corp. On March 31, 2004, a Nonsuit Order was granted in respect to Transouth Financial Corporation. On October 14, 2004, Gary Sager owner of Auto Advantage reached a settlement agreement with Ms. Teets in the amount of \$20,000.00 and took possession of the vehicle. On October 25, 2004, Ms. Teets was awarded Judgment against Windsor Auto Sales for fraud and violation of the Virginia Consumer Protection Act in the amount of \$78,689.46 (\$3,000 compensatory damages, \$34,000 punitive damages, \$3,000 for violation of VCPA and \$38,589.45 in attorney fees).

After carefully reviewing all the documentation, it was recommended that the Recovery Fund Committee and Board approve Ms. Teet's claim in the amount of \$20,000.00, which is the maximum amount required by Virginia Code. On April 14, 2005, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer agrees with the Board staff's claim approval and recommended that the Board approve payment to Ms. Teets in the amount of \$20,000.00.

After further discussion and review of the information provided to the Committee in their notebooks, a motion was made by Steve Farmer to accept the hearing officer's recommendation and pay Ms. Teets in the amount of \$20,000.00. Clyde King seconded. The motion carried unanimously.

- **Walter F. Clark and Premier Auto and Steve's Wholesale.** On February 21, 2003, Mr. Clark purchased a 2000 Ford Explorer that was advertised on the internet by Premier Auto for a purchase price of \$10,000.00, plus a \$195.00 processing fee and \$2.00 for temporary plates. Edward Mayo, owner of Premier Auto sent an e-mail to Mr. Clark with the wiring instructions for payment to Monarch Bank in Chesapeake, Virginia in the name of Bobb of Virginia, Inc. On that same day, Mr. Clark wired the total payment of \$10,197.00 for the purchase of the vehicle. Mr. Mayo sent Mr. Clark, via the internet, a receipt for the funds received on February 21, 2003. On March 17, 2003, Mr. Mayo had the vehicle delivered to Mr. Clark in Plymouth Michigan and provided 30-day temporary tags which expired on April 4, 2003. On April 4, 2003, Stephen Bilenky owner of Steve's Wholesale, LLC, made application to the DMV to transfer the vehicle's title in his corporate name, even though he had knowledge that Walter Clark had purchased the vehicle from Edward Mayo through Premier Auto. Mr. Clark was issued another set of temporary tags that were due to expire May 4, 2003.

Since that time, Edward Mayo, through Premier Auto, has failed and/or refused to communicate with Mr. Clark in resolving the matter and Stephen Bilenky through Steve's Wholesale, LLC, refused to relinquish title of the Ford Explorer to Mr. Clark. Without the title, Mr. Clark has been unable to title and register the vehicle in his home state since he purchased it. He hasn't been able to use the vehicle since May 4, 2003, forced to incur storage fees for the vehicle and has had to purchase another vehicle as means of transportation. On March 5, 2004, Nathan Chapman, counsel for Mr. Clark, submitted to the Dealer Board, as prior notification, a Motion for Judgment that had been filed against Edward Mayo, Bobb of Virginia, Inc., Premier Auto Sales, Inc., Stephen Bilenky and Steve's Wholesale, LLC. A settlement agreement between Mr. Clark and Mr. Bilenky and Steve's Wholesale was entered on March 10, 2004 for the release of the title to the vehicle. It was further agreed that Mr. Clark would non-suit against Mr. Bilenky and should a judgment be awarded for fraud against Edward Mayo and/or Premier, any recovery from the Transaction Recovery Fund, Mr. Clark agreed to provide Stephen Bilenky with any recovery which amount is over the first \$5,000.00 but less than \$8,000.00 or if greater than \$8,000.00, Clark agrees to share half (1/2) of any recovery.

On March 10, 2004, judgment was awarded to Walter Clark against Edward Mayo and Premier Auto Sales for a total amount of \$10,652.64 and it was also ordered that Stephen Bilenky and Steve's Wholesale, LLC, relinquish title to the vehicle. On February 14, 2005, Mr. Clark submitted to the Dealer Board the required documents for consideration of payment from the Fund.

After carefully reviewing all the documentation, it was recommended that the Recovery Fund Committee and Board approve Mr. Clark's claim in the amount of \$8,574.32 (\$4,293.00 in attorney fees, \$231.32 in court costs and the vehicle depreciation amount of \$4,050.00). On April 11, 2005, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer agrees with the Board staff's claim approval and recommended that the Board approve payment to Mr. Clark in the amount of \$8,574.32.

After further discussion and review of the information provided to the Committee in their notebooks, a motion was made by Steve Farmer to accept the hearing officer's recommendation and pay the judgment amount of \$8,574.32. David Lacy seconded.

Substitute motion was made by Lynn Hooper to not accept the payment for the depreciation amount of \$4,050.00. Motion failed due to no second.

Original motion stands. All in favor: 5 (Farmer, King, Lacy, Schroeder, Shelor). Opposed: 1 (Hooper). The motion carried.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

- **Legislative Concepts: 2006 General Assembly.** Bruce Gould extended to the Committee members the opportunity to suggest any legislative concepts in regards to Transaction Recovery Fund. Considering, the Transaction Recovery Fund Committee has already identified legislative proposals, there were no further suggestions.

NEW BUSINESS FROM THE FLOOR

There was no old business from the floor.

The next meeting was scheduled for July 11, 2005.

The meeting adjourned at 11:20 a.m.